

1
2 **BEFORE A HEARING OFFICER**
3 **OF THE SUPREME COURT OF ARIZONA**

FILED

NOV 26 2008

HEARING OFFICER OF THE
SUPREME COURT OF ARIZONA
BY AMA

4 IN THE MATTER OF A MEMBER)
5 OF THE STATE BAR OF ARIZONA,)

6 **CHESTER R. LOCKWOOD,**)
7 **Bar No. 003348**)

8 **RESPONDENT.**)
9 _____)

No. 07-1611, 07-1657, 07-1683
07-1703, 07-2082, 08-0363

HEARING OFFICER'S REPORT

10 **PROCEDURAL HISTORY**

11 The Complaint was filed on March 25, 2008. Respondent filed an
12 Answer on May 2, 2008. Amendments to the pleadings followed. The parties
13 filed a Tender of Admissions and Agreement for Discipline by Consent and
14 Joint Memorandum on November 4, 2008. Respondent filed a Supplemental
15 Memorandum on November 6, 2008. A hearing was held on November 6,
16 2008.
17

18 **FINDINGS OF FACT**

19 1. At all times relevant, Respondent was an attorney licensed to
20 practice law, having been admitted to practice in Arizona on April 28, 1973.
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22 2. Respondent agrees to accept a ninety day suspension and be placed
23 on probation for a period of two years for conduct involving delays in the refund
24 of unearned fees, poor communication and lack of diligence.
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1 3. Restitution is not an issue in this case because Respondent took
2 remedial measures to refund unearned fees.

3
4 4. Respondent's conduct violated Rule 42, *Rules of the Supreme Court*,
5 specifically ER 1.3, 1.4, 1.5(b), 1.7(a)(2), 3.2(b), 3.4(c), 1.15(d), 1.16(d), 5.3, 5.5,
6 8.4(d) and Rule 53(f), *Rules of the Supreme Court*, which Respondent
7 conditionally admits.

8 9 ABA STANDARDS

10 The ABA *Standards* list the following factors to consider in imposing the
11 appropriate sanction: (1) the duty violated, (2) the lawyer's mental state, (3) the
12 actual or potential injury caused by the lawyer's misconduct, and (4) the
13 existence of aggravating or mitigating circumstances. ABA *Standard* 3.0; *In re*
14 *Peasley*, 208 Ariz. 27, 90 P.3d 764 (2004).

15 16 RECOMMENDATION

17 The purpose of lawyer discipline is not to punish the lawyer, but to protect
18 the public and deter future misconduct. *In re Fioramonti*, 176 Ariz. 182, 187, 859
19 P.2d 1315, 1320 (1993). It is also the objective of lawyer discipline to protect the
20 public, the profession and the administration of justice. *In re Neville*, 147 Ariz.
21 106, 708 P.2d 1297 (1985). Yet another purpose is to instill public confidence in
22 the bar's integrity. *Matter of Horwitz*, 180 Ariz. 20, 29, 881 P.2d 352, 361
23 (1994).
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25

1 Upon consideration of the Joint Memorandum, the Respondent's
2 Supplemental Memorandum and the testimony and arguments at the hearing on
3 the matter, acceptance of the Tender of Admissions and Agreement for Discipline
4 by Consent is recommended. It is recommended Respondent be placed on
5 suspension for 90 days and probation for 2 years. The terms of the probation
6 should be as set forth in the Joint Memorandum.
7

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9 DATED this 25th day of November, 2008.

10
11 Robert J. Stephan, Jr. /mm
12 Robert J. Stephan, Jr.
13 Hearing Officer 9R

14 Original filed with the Disciplinary Clerk
15 this 26th day of November, 2008.

16 Copy of the foregoing mailed
17 this 28th day of November, 2008, to:

18 David P. Stoller
19 Respondent's Counsel
20 P.O. Box 13122
21 Prescott, AZ 86304

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23 Bar Counsel
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By: 